The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Solano Garbage Company--Reconsideration

File: B-225397.2; B-225398.2

Date: June 5, 1987

DIGEST

Request for reconsideration is denied where based on arguments that could have been, but were not, raised by protester in course of original protest.

DECISION

Solano Garbage Company requests reconsideration of our decision in Solano Garbage Co., B-225397, B-225398, Feb. 5, 1987, 66 Comp. Gen. ___, 87-1 C.P.D. ¶ 125, where we denied protests by Solano under two solicitations (invitation for bids Nos. F04626-86-B-0014 and F04626-86-B-0058) for refuse collection and disposal services at Travis Air Force Base. We deny the request.

Prior Decision

Solano had contended that the solicitations were improper under 42 U.S.C. § 6961 (1982), which requires federal entities to comply with federal, state and local requirements for the control and abatement of solid waste and for hazardous waste disposal. Solano argued that, pursuant to that provision, Travis had to contract with Solano since Solano had been granted an exclusive franchise for refuse collection in Fairfield, California, and Travis is within the city limits of Fairfield. In support of its position, Solano cited our decision in Monterey City Disposal Service, Inc., 64 Comp. Gen. 813 (1985), 85-2 C.P.D. ¶ 261, in which we interpreted 42 U.S.C. § 6961 as requiring two federal facilities located within the city limits of Monterey, California, to follow a city requirement that all inhabitants of the city have their solid waste collected by the city's exclusive franchisee.

We found that, as argued by the Air Force, Travis, by virtue of its size, function and identity as a separate community, was a major federal facility within the meaning of 40 C.F.R. § 255.33 (1986), one of the Environmental Protection Agency

(EPA) guidelines relevant to the implementation of 42 U.S.C. § 6961. This regulation provides that major federal facilities are to be considered "incorporated municipalities" (i.e., local governments) when states are identifying responsible governmental agencies for purposes of state plans concerning solid waste management. We concluded that Travis therefore had local government status equivalent to Fairfield's and that, because the state of California, in an October 1981 Plan, had delegated the responsibility for refuse collection to local government, Travis, like Fairfield, could provide for its own refuse collection services. Our prior decision distinguished Monterey on the basis that Monterey did not concern major federal facilities.

Reconsideration Request

Solano challenges our finding that Travis may provide for its own refuse collection basically on two grounds: (1) 42 C.F.R. § 255.33 cannot support a finding that Travis is not subject to the Fairfield requirement since it is only a guideline to assist states in the development of their respective state plans; and (2) the California delegation does not envision exemption of major federal facilities from local requirements.

Our Bid Protest Regulations require that a request for reconsideration contain a detailed statement of the factual and legal grounds for the request, specifying any errors of law or information not previously considered. 4 C.F.R. § 21.12(a) (1986). Our Regulations do not permit a piecemeal presentation of evidence, information, or analyses, and where a party raises in its reconsideration request an argument that it could have, but did not, raise at the time of the protest, the argument does not provide a basis for reconsideration. Joseph L. De Clerk and Associates, Inc.--Reconsideration, B-221723.2, Feb. 26, 1986, 86-1 C.P.D. ¶ 200.

Solano argued the meaning of the regulations in its comments on the agency's report on the original protest but, although it obviously could have, Solano did not challenge the force and effect of the regulations on the ground that they were nonbinding guidelines. The firm also did not attempt to show how the California Plan supported its position. These arguments therefore do not now constitute bases for reconsideration.

In any case, nothing in the cited EPA regulations persuades us that the provision designating major federal facilities "incorporated municipalities" was meant to have only a limited advisory effect as suggested by Solano. Rather, we

consider it significant that EPA issued these regulations in connection with 42 U.S.C. § 6961, and specifically characterized major federal facilities as municipalities for purposes of state waste disposal plans such as the California Plan. However Solano characterizes the EPA regulations, as stated in our prior decision, they support viewing major facilities like Travis as having the same status as a local government for purposes of contracting for its refuse collection. We also note that, contrary to Solano's second argument, nothing in the portions of the California Plan presented by Solano expressly subjects major federal facilities to local requirements.1/

The request for reconsideration is denied.

for Seymour Efros
Harry R. Van Cleve
General Counsel

1/ Solano also points out that 42 U.S.C. § 6961 further provides that only the President can exempt a federal entity from complying with local requirements applicable by the statute and notes that there has been no Presidential exemption for Travis. This issue is moot, however, since we have found that Travis is not subject to those local requirements.